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July 10, 2012

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VIA HAND DELIVERY

Jeff S. Jordan, Esq.
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street NW
Washington, DC 20463

Re: MUR 6594 – Timothy S. Stewart

Dear Mr. Jordan:

This office represents Timothy S. Stewart ("Mr. Stewart") in the above-captioned MUR.

We have reviewed the Complaint filed on June 14, 2012 by David Clark, Cheryl Eager, Howard Wallack, and John Williams ("Complainants"). The Complaint alleges with no supporting evidence that Mr. Stewart conspired with the other respondents to disseminate an anonymous mail piece (the "Anonymous Letter") in violation of the Federal Election Campaign Act of 1971, as amended ("FECA" or "Act") and Commission regulations. As is detailed below, there is no reason to believe that Mr. Stewart violated the Act or Commission regulations. Accordingly, the Commission should promptly dismiss the Complaint.

The Complaint is Based Upon Speculation and Innuendo and Fails to Meet the "Reason to Believe" Threshold

The Complaint fails to meet the Commission's well-established "reason to believe" threshold with respect to Mr. Stewart. The allegations in the Complaint are based upon pure speculation and fail to include any credible evidence that Mr. Stewart was involved in the dissemination of the Anonymous Letter. The Complainants contend that Mr. Stewart must have been involved in the dissemination of the Anonymous Letter given that (1) Mr. Stewart is the brother of Chris Stewart, who is a candidate for Utah's Second Congressional District, and (2) Mr. Stewart was involved in the dissemination of a mail piece in connection with the 2010 Utah Republican state convention.¹ Complaint at 8-9 ("These

¹ This mail piece was the subject of MUR 6317; Mr. Stewart entered into a conciliation agreement with the Commission resolving MUR 6317.

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closely-connected consultants, and the numerous similarities in the prior FEC violation, are more than coincidental, and [] they lead logically to the conclusion that the illegal Anonymous Letter and the strategy employed was created and/or executed by the Stewart campaign and/or its agents, including . . . Tim Stewart.”).

However, a “reason to believe” finding cannot be made based upon such rank speculation. Rather, a “reason to believe” finding is only appropriate when a complaint sets forth specific facts that, if proven true, would constitute a violation of the Act. See 11 C.F.R. § 111.4(a), (d). The Commission has emphasized repeatedly that “[u]nwarranted legal conclusions from asserted facts, or mere speculation, will not be accepted as true.” Statement of Reasons in MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee) at 2 (Dec. 21, 2000) (internal citations omitted). See *also* Statement of Reasons in MUR 5141 (Moran for Congress) at 2 (Mar. 11, 2002) (“A complainant’s unwarranted legal conclusions from asserted facts will not be accepted as true.”).

The Complaint in this matter contains little more than speculation and innuendo concerning Mr. Stewart, including the bald assertion that because Mr. Stewart is the brother of a congressional candidate, and because Mr. Stewart was a respondent in a prior enforcement action which also involved the dissemination of a mail piece, that Mr. Stewart *must* have been involved in the creation and dissemination of the Anonymous Letter. Because the Complaint fails to meet the “reason to believe” threshold, the Commission should dismiss the Complaint.

Mr. Stewart Was Not Involved with the Anonymous Letter

Even if the Complaint did meet the “reason to believe” threshold—and it does not—the Commission should find no reason to believe that Mr. Stewart violated FECA because Mr. Stewart had no involvement whatsoever with the Anonymous Letter. Attached as Exhibit 1 is an affidavit containing Mr. Stewart’s sworn testimony that he did not “create, pay for, disseminate or have any other role concerning the Anonymous Letter” See Affidavit of Timothy S. Stewart at ¶ 4. Moreover, Mr. Stewart had no knowledge of the Anonymous Letter prior to its public dissemination. See *id.* Furthermore, Mr. Stewart does not have personal knowledge of who created, paid for, or disseminated the Anonymous Letter. See *id.*

Given that Mr. Stewart was not involved with the Anonymous Letter in any respect, and given that Mr. Stewart has provided the Commission with sworn

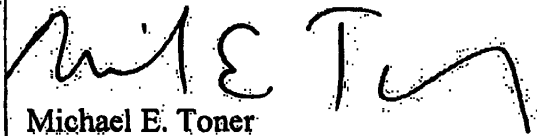
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testimony to this effect, the Commission should find no reason to believe that Mr. Stewart violated the Act.

Conclusion

For all the foregoing reasons, the Commission should find no reason to believe that Mr. Stewart violated FECA and should promptly dismiss the Complaint.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael E. Toner", is written over the typed name.

Michael E. Toner
Brandis L. Zehr

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